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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

ALASKA NATIONAL INSURANCE
COMPANY,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 3:17-cv-_____ ()

COMPLAINT

Plaintiff ALASKA NATIONAL INSURANCE COMPANY, through its counsel, Farley
& Graves, P.C., hereby alleges the following claims against Defendant UNITED STATES OF
AMERICA ("UNITED STATES"):

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1 1. Plaintiff ALASKA NATIONAL INSURANCE COMPANY ("ANIC") is an
2 Alaska Corporation doing business in Alaska, and a licensed insurance carrier authorized to
3 conduct insurance business within the State of Alaska.

4 2. At all times relevant to the facts alleged in this Complaint, Plaintiff ANIC was
5 the insurer for DOYON UNIVERSAL SERVICES, LLC ("DOYON"), an Alaska Limited
6 Liability Company doing business in Alaska.

7 3. At all times relevant to the facts alleged in this Complaint, GERALD OWNBY
8 ("OWNBY") was DOYON's employee. DOYON was a lawfully insured employer pursuant
9 to, and under the requirements of, the Alaska Workers' Compensation Act, AS 23.30.001 *et*
10 *seq.*, and ANIC wrote a Workers Compensation & Employers Liability Insurance Policy
11 insuring DOYON against claims under the Alaska Workers' Compensation Act, which policy
12 was in effect on or about January 21, 2013. At all times relevant herein, ANIC was and is
13 obligated under said duly issued and valid policy of insurance to pay workers' compensation
14 benefits to employees of DOYON, including OWNBY, for claims arising under the Alaska
15 Workers' Compensation Act. ANIC is further subrogated to the workers' compensation
16 benefits/losses/damages/claims it has paid or will hereafter pay on behalf of DOYON to its
17 employees, including OWNBY, pursuant to AS 23.30.015.

18 4. On or about January 21, 2013, OWNBY, while in the course and scope of his
19 employment for DOYON, was involved in a motor vehicle accident on the Richardson
20 Highway near Delta Junction, Alaska (the "Accident"). OWNBY was driving toward
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1 Fairbanks; in the opposite, oncoming lane of traffic, Steven Booth was stopped in his vehicle,
2 waiting for OWNBY to pass so he could make a left-hand turn onto Jack Warren Road.
3 Booth's vehicle was rear-ended by a U.S. Army Stryker vehicle; the impact pushed Booth's
4 vehicle into the DOYON vehicle OWNBY was driving.

5 5. On January 8, 2016, OWNBY, through counsel, filed suit against the UNITED
6 STATES of America under the Federal Torts Claim Act (FTCA). *See Ownby v. United States*,
7 4:16-cv-00002-HRH. OWNBY's Complaint alleges, *inter alia*, that OWNBY was a DOYON
8 employee, that a "culpable agent for the U.S. Government [*i.e.*, the driver of the Army Stryker
9 vehicle] was a substantial factor in negligently injuring OWNBY," and that OWNBY sustained
10 economic and non-economic injuries in the Accident. ANIC incorporates by reference herein
11 all allegations set forth in that Complaint.

12 6. OWNBY's injuries for which he is claiming damages against the UNITED
13 STATES are the same injuries for which ANIC has paid benefits to and on behalf of OWNBY
14 pursuant to Alaska Workers' Compensation Act, AS 23.30.001 *et seq.*, and the terms of its
15 Workers Compensation & Employers Liability Insurance Policy. To date, Plaintiff ANIC has
16 made and will make payments for workers' compensation benefits/losses/damages/claims to
17 and on behalf of OWNBY in the amount of \$219,006.73. This amount includes \$100,000 paid
18 to OWNBY through a Compromise & Release Agreement ("C&R Agreement") under AS
19 23.30.012. ANIC specifically reserved its rights in the C&R Agreement to reimbursement of
20 its workers compensation payments from any third-party action arising out of the Accident, and
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to any credit to which we are otherwise entitled under AS 23.30.015(g). ANIC further alleges that it may be ordered to pay additional medical benefits, and could become liable to pay such benefits to and on behalf of OWNBY herein, pursuant to the Alaska Workers Compensation Act AS 23.30.001 *et seq.* and the terms of the C&R Agreement.

7. ANIC promptly put OWNBY and the UNITED STATES on notice of its subrogation rights under AS 23.30.015 through timely filing a Standard Form 95 in this case, which the UNITED STATES has not rejected and thus the filing of this action is timely. *See* Ex. A to this Complaint (Standard Form 95).

8. On August 25, 2017, OWNBY served an Alaska Civil Rule 68 Offer of Judgment on the UNITED STATES for \$550,000, including all interest, costs and attorney fees. Upon information and belief, OWNBY and the UNITED STATES have reached an agreement to settle all claims asserted in the Ownby Complaint for that amount.

9. By reason of the payments made by ANIC to and on behalf of OWNBY as described herein, and under AS 23.30.015, ANIC has become subrogated to all the rights of DOYON and its employee OWNBY, and against any third party who is or may be liable to OWNBY on account of his injuries, including the UNITED STATES, to the extent of the benefits paid or to be paid by ANIC. ANIC has an independent claim against the UNITED STATES under AS 23.30.015(d) to recover up to the extent of ANIC's payments (described in ¶ 6 of this Complaint) under the Alaska Workers Compensation Act, AS 23.30.001 *et seq.*

1 WHEREFORE, Plaintiff, ALASKA NATIONAL INSURANCE COMPANY, prays, as
2 follows:

- 3 1. That it be adjudged that Plaintiff ALASKA NATIONAL INSURANCE
4 COMPANY is entitled to recovery from the UNITED STATES to the extent of all
5 payments made and to be made to and on behalf of OWNBY by ANIC under the
6 Alaska Workers Compensation Act;
- 7 2. For a declaration of the rights and duties among the parties; and
- 8 3. For prejudgment interest at the legal rate; and,
- 9 4. For costs of suit, including but not limited to Alaska Civil Rule 82 Attorney Fees
10 and recoverable costs, pursuant to Dist. Ak. Local R. 54.1 and 54.3.
- 11 5. For all such other and further relief as this Honorable Court may deem just and
12 proper.

13 DATED this 10 of November 2017 at Anchorage, Alaska.

14 FARLEY & GRAVES, P. C.

15
16 By: 

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